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## Media Release

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### **Delaware's Motion to Intervene in DuPont Trust Case Granted by Florida Court** *Attorney General Biden acting to protect Delawareans' interests as primary beneficiaries*

**Wilmington** – Delaware Attorney General Beau Biden announced that a Florida court on Friday granted his office's motion to intervene in a case involving the Alfred I. duPont Testamentary Trust, which funds The Nemours Foundation.

Biden asked the Duval County Circuit Court last month to allow Delaware to intervene in the court's review of a request by the Trustees to split the Trust into two entities to achieve more favorable tax treatment (read the Attorney General's press release announcing that move at <http://www.attorneygeneral.delaware.gov/media/releases/2012/proceeding2-14.pdf>). Delaware law gives the state Attorney General's Office the authority to act on the public's behalf where, as here, the public is designated as the beneficiary of a trust. The Trustees consented to the Attorney General's Motion.

"I am pleased that the Court has agreed to make my office a party in this case," Biden said. "We will act as a strong advocate for the interests of Delawareans and work to ensure that the clear intention of Alfred I. duPont - that first consideration be given to the children and elderly of Delaware - continues to be carried out."

Biden's office will now be able to advocate for Delaware's interests as the court considers whether to allow the Trust to split and what conditions should be attached to any approval. Specific areas of concern for Delaware include how the Nemours Foundation spends the funding it receives from the Trust, how the Trust selects its trustees and how the Nemours Foundation selects its directors and managers and how the Trust calculates how much money it allocates to the Nemours Foundation each year.

The Trustees filed their motion Dec. 29, 2011. The case is being heard in a Florida court because the Alfred I. duPont Trust is based in Jacksonville, Florida, where duPont was living at the time of his death in 1935.

Alfred I. duPont, who was a vice president at the DuPont Company before moving to Florida, left the vast majority of his fortune to the Trust when he died. DuPont's will directs the Trust to establish the Nemours Foundation to care for "crippled children, but not incurables," as well as the of "old men and old women, and particularly couples." DuPont intended for Nemours' main focus to be on Delaware, specifying in his will that "first consideration, in each instance, (be) given to beneficiaries who are residents of Delaware." The Trust was valued at \$40 million at the time of DuPont's death and swelled to \$4.6 billion by 2009.

The Nemours Foundation includes the Alfred I. duPont Hospital for Children in Wilmington, the Nemours Children's Hospital in Jacksonville, Fla., the Nemours Children's Clinics in Delaware, Florida, Pennsylvania and New Jersey, and the Nemours Mansion and Gardens.

On Jan. 17, 1980, the Trustees signed an agreement with the State of Florida, the State of Delaware and the Nemours Foundation governing how the Trust would operate in the future. Among the agreement's provisions are requirements that:

- The Trust distribute to Nemours the net income of the Trust or 3 percent of the Trust's net market value, whichever is greater;
- At no time shall more than 50 percent of the funds be spent outside Delaware;
- Trustees required to broaden the scope of services offered at Nemours based on the availability of funds;
- A \$25 million contingency fund be maintained for Nemours' Delaware operations; and
- Individuals are eligible for care at Nemours' children's facilities up to age 21.

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